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WILLIAM BLAKE HATCHER and S. SPIRES

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FREDERICK JACKSON; A. JACKSON, a
minor; B. JACKSON, a minor; SHAWNA
YVETTE MARTIN,

Plaintiffs,

v.

CITY OF PITTSBURG; AARON L.
BAKER; individually and in his
Official Capacity as CHIEF OF POLICE OF
THE CITY OF PITTSBURG POLICE
DEPARTMENT; G. LOMBARDI,
individually and as an Officer of the CITY
OF PITTSBURG POLICE DEPARTMENT
(BADGE #275); C. SMITH, individually
and as an Officer of the CITY OF
PITTSBURG POLICE DEPARTMENT
(BADGE #285); P. DUMPA, individually
and as an Officer of the CITY OF
PITTSBURG POLICE DEPARTMENT
(BADGE #291); WILLIAM BLAKE
HATCHER, individually and as an Officer
of the CITY OF PITTSBURG POLICE
DEPARTMENT (BADGE #274) SARA
SPIRES,
individually and as an Officer of the CITY
OF PITTSBURG POLICE DEPARTMENT;
and DOES 1-100, inclusive,

Defendants.

CASE NO.: C09-01016 WHA

**ORDER RE: PLAINTIFFS' AND
DEFENDANTS' MOTIONS IN
LIMINE**

Trial Date: 7/12/10

At the Pre-Trial Conference on July 7, 2010, the Court made the following orders in connection with plaintiffs' and defendants' respective Motions in Limine.

I. PLAINTIFFS' MOTIONS IN LIMINE

A. Plaintiffs' Motion in Limine #1 to Exclude Evidence of Plaintiff Frederick Jackson's Prior Convictions

The following convictions will be admitted for impeachment purposes:

1. 1997 burglary (second degree);
2. 1997 forgery;
3. 1997 receipt of stolen property;
4. 1997 burglary (second degree); and
5. 1997 possession of a completed check or money order with intent to defraud.

The parties are only to refer to the title of these felonies. Plaintiff is entitled to introduce evidence as to the age of these felonies. If plaintiff opens the door to the underlying facts of his felony convictions, the Court may allow defendants to elicit further testimony regarding those underlying facts.

Evidence of plaintiff's 1990 forgery is excluded at this time.

The felony convictions for infliction corporal injury to a spouse or cohabitant and possession of marijuana for sale are not allowed because they do not go to plaintiff's veracity. Defendants may impeach plaintiff as to the number of his felony convictions so long as they do not telegraph the particulars of the excluded offenses to the jury.

B. Plaintiffs' Motion in Limine #2 to Exclude Plaintiff Frederick Jackson's Prior Arrests

This Motion in Limine was granted.

C. Plaintiffs' Motion in Limine #3 to Exclude Evidence of the Presence of Cocaine, Alcohol or Any Other Drug

This Motion in Limine was denied.

1 D. Plaintiffs' Motion in Limine #4 to Limit The Scope of The Evidence
2 Regarding The Events in Question and Plaintiff's Emotional State
3 After Sustaining His Injuries

4 This Motion in Limine was denied.

5 E. Plaintiffs' Motion in Limine #5 to Order All Named Defendants and
6 Their Deposed Employees to Appear at Trial

7 This Motion in Limine is moot.

8 II. DEFENDANTS' MOTIONS IN LIMINE

9 A. Defendants' Motion in Limine #1 to Exclude Evidence of Defendants'
10 Use of Their Tasers on Any Other Date Than The Date of The
11 Incident.

12 This Motion in Limine was granted with the possible exception of Pamela
13 Jackson. Plaintiffs' opposition improperly attempted to shift the burden of proof to
14 defendants as to the propriety of these other tasers on any other date.

15 B. Defendants' Motion in Limine #2 to Exclude Any and All References
16 to The Fact That The District Attorney Did Not Prosecute Frederick
17 Jackson

18 This Motion in Limine was granted with the possible exception that such
19 references may be allowed if the defense creates a misimpression with the jury that
20 could only be remedied by allowing evidence that the District Attorney did not
21 prosecute plaintiff Frederick Jackson. No such references should be made in front of
22 the jury pending further order by the Court.

23 C. Defendants' Motion in Limine #3 to Exclude Any and All References
24 That Defense Counsel Instructed an Officer How to Testify

25 This Motion in Limine was denied. The Court held that there is no expectation
26 of privacy in connection with the alleged conversation between counsel and the
27 clients.

28 D. Defendants' Motion in Limine #4 to Exclude Any and All References
 to Other Citizen Complaint

 This Motion in Limine was withdrawn.

1 **E. Defendants' Motion in Limine #5 to Exclude Any and All References**
2 **to Insurance Coverage**

3 This Motion in Limine was uncontested and is therefore granted.

4 **F. Defendants' Motion in Limine #6 to Exclude Any and All References**
5 **That The City of Pittsburg May Indemnify The Individual**
6 **Defendants**

7 This Motion in Limine was uncontested and is therefore granted.

8 **G. Defendants' Motion in Limine #7 to Exclude Plaintiffs' Anticipated**
9 **Golden Rule Argument**

10 This Motion in Limine was uncontested and is therefore granted.

11
12 **H. Defendants' Motion in Limine #8 to Prohibit Plaintiffs From Calling**
13 **Witnesses Not Property Disclosed**

14 Michelle and Sean Martin are excluded as witnesses in plaintiffs' case-in-chief.
15 They may possibly be allowed as rebuttal witnesses on behalf of plaintiffs pending
16 further ruling by the Court. Until such further ruling is made, no reference to them in
17 front of the jury is allowed.

18 Plaintiffs withdrew and will not call Randall Martin.

19 Christopher "Pinkie" Olson, Salvador Cornejo and Nicole Camacho are
20 precluded from testifying. Plaintiffs did not demonstrate substantial justification for
21 their late disclosure.

22 The court did not yet make a final ruling regarding Pamela Jackson.

23 Regarding Hilario Santayo Martinez, Danielle Pierce, Javier Ortiz, Francisco
24 Mendez and Deflina Martinez, the court overruled the Motion in Limine on Rule 26
25 grounds. However, in terms of relevancy, defendants are to attempt to subpoena these
26 individuals for depositions no later than Saturday, July 10, 2010. The depositions
27 shall last no more than one hour each.

28 Plaintiffs withdrew Curtitean Richone.

1 **I. Defendants' Motion in Limine #9 to Exclude Evidence of Alleged**
2 **Hearsay Statements by the Paramedics to Frederick Jackson**

3 This Motion in Limine was withdrawn.

4 **J. Defendants' Motion in Limine #10 to Limit the Testimony of**
5 **Plaintiffs' Expert Roger Clark**

6 The court opined that Mr. Clark's report was inadequate and expressed
7 improper opinions. The parties have until July 9, 2010 at 12:00 p.m. for experts to
8 provide supplemental reports specifying the exact standards upon which they rely.

9 **K. Defendants' Motion in Limine #11 to Exclude References to**
10 **Defendants' Post-Incident Conduct**

11 This Motion in Limine was denied.

12 **L. Defendants' Motion in Limine #12 to Exclude Any and All**
13 **References to Defendants Being Motivated by Racial Animus**

14 This Motion in Limine was uncontested and is therefore granted.

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The Court will endeavor to voir dire the prospective jurors about the Mehersle verdict.

By: /s/
Peter P. Edrington, Esq.
Attorney for Defendants

By: /s/
Panos Lagos, Esq.
Attorney for Plaintiffs

Dated: July 12, 2010.